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EXCEPTION

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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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IN THE MATTER OF THE GENERIC)
PROCEEDINGS CONCERNING ELECTRIC)
RESTRUCTURING ISSUES)

DOCKET NO. E-00000A-02-0051

IN THE MATTER OF ARIZONA PUBLIC)
SERVICE COMPANY'S REQUEST FOR)
VARIANCE OF CERTAIN REQUIREMENTS)
OF A.A.C. R14-2-1606)

DOCKET NO. E-01345A-01-0822

IN THE MATTER OF THE GENERIC)
PROCEEDING CONCERNING THE)
ARIZONA INDEPENDENT SCHEDULING)
ADMINISTRATOR)

DOCKET NO. E-00000A-01-0630

IN THE MATTER OF TUCSON ELECTRIC)
POWER COMPANY'S APPLICATION FOR)
A VARIANCE OF CERTAIN ELECTRIC)
COMPETITION RULES COMPLIANCE)
DATES)

DOCKET NO. E-01933A-02-0069

IN THE MATTER OF THE APPLICATION)
OF TUCSON ELECTRIC POWER COMPANY)
FOR APPROVAL OF ITS STRANDED COST)
RECOVERY)

DOCKET NO. E-01933A-98-0471

EXCEPTION TO ALJ'S
RECOMMENDATION OF
ARIZONANS FOR
ELECTRIC CHOICE AND
COMPETITION

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1 On July 23, 2002, Administrative Law Judge Lyn Farmer issued a recommended Opinion
2 and Order ("Proposed Order") on the Track A issues in this matter. Arizonans for Electric
3 Choice and Competition ("AECC") respectfully submit the following exception to the Proposed
4 Order.

5 The AECC believes that, although it was probably not intended, the Proposed Order can
6 be read to erroneously imply that the treatment of market power in load pockets through the
7 "must-run generation" protocol of the Arizona ISA is somehow at odds with either the market
8 power studies conducted by Dr. Roach or a finding that APS and TEP have market power and
9 would transfer that market power to their affiliates upon divestiture. Page 21, lines 16 - 22 of the
10 Proposed Order states as follows:

11 "All the parties to the proceeding, with the exception of APS and AUIA, agree
12 that market power/market abuse issues are real and should be addressed. We agree and
13 believe that the market power studies conducted by Dr. Roach do the best job of
14 analyzing the market conditions/structure in Arizona and in current load pockets. We
15 disagree that market power in the load pockets is best addressed in the "must-run
16 generation" protocol of the Arizona ISA, and note that there is no RTO currently in
17 existence. We find that APS and TEP have market power and would transfer that market
18 power to their affiliates upon divestiture."

19 This reference to the Arizona ISA is overly-broad and creates a misimpression of
20 incompatibility between the market power studies of Dr. Roach and the operation of the Arizona
21 ISA "must-run generation" protocol. In fact, the Arizona ISA must-run generation protocol does
22 not conflict either with Dr. Roach's market power studies or the conclusion that APS and TEP

1 have market power in the load pockets. In fact, the Arizona ISA “must-run generation” protocol
2 takes as a given that APS and TEP have market power in load pockets; the “must-run
3 generation” protocol attempts to mitigate the impacts of this market power by forcing generation
4 owners inside load pockets to make power available at cost-based rates during load pocket
5 conditions. This is a mechanism that *protects* consumers. Such a mechanism was prescribed by
6 the Commission in the Electric Competition Rules, developed by Arizona stakeholders under the
7 auspices of the Arizona ISA, and has been approved by FERC. The benefits provided by the
8 operation of this protocol are undisputed in the record.

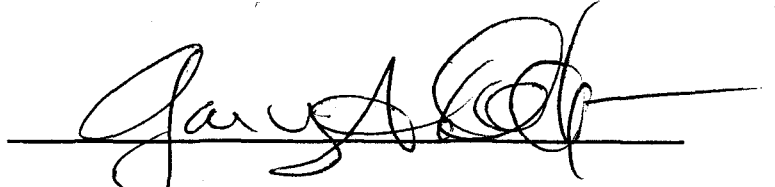
9 The Proposed Order creates a process by which Reliability-Must-Run (RMR) issues can
10 receive a broad airing as part of the next Biennial Transmission Assessment, which goes well
11 beyond the subject matter of the Arizona ISA protocol. The lines of inquiry suggested in the
12 Proposed Order, such as analyzing the tradeoff between reliance on RMR generation and
13 constructing new transmission, speak to the matter of long-term infrastructure investment in load
14 pockets. Such an inquiry would not conflict with the existing “must-run generation” protocol,
15 which is short-run in nature, but would be complementary to it. Good public policy requires that
16 Arizona retain the operational benefits of the existing “must-run generation” protocol, while
17 investigating the long-term infrastructure needs of service to load pockets.

18 AECC assumes that the Proposed Order intended to convey a finding that the “must-run
19 generation” protocol of the Arizona ISA may be insufficient, standing alone, to resolve all load
20 pocket market power concerns. AECC requests that the Proposed Order be amended to reflect
21 this intent, as follows:

1 "All the parties to the proceeding, with the exception of APS and AUIA, agree
2 that market power/market abuse issues are real and should be addressed. We agree and believe
3 that the market power studies conducted by Dr. Roach do the best job of analyzing the market
4 conditions/structure in Arizona and in current load pockets. ~~We disagree that market power in~~
5 ~~the load pockets is best addressed in the "must-run generation" protocol of the Arizona ISA, and~~
6 ~~note that there is no RTO currently in existence.~~ We find that APS and TEP have market power
7 and would transfer that market power to their affiliates upon divestiture. Moreover, we note that
8 there is no RTO currently in existence in Arizona and believe that it is desirable to establish a
9 process that builds upon, but goes beyond, the Arizona ISA "must-run generation" protocol to
10 evaluate the long-term infrastructure needs of service to load pockets. We disagree that market
11 power in the load pockets is best addressed through sole reliance on the "must-run generation"
12 protocol of the Arizona ISA."

13 The AECC respectfully submits that the language clarifications proposed above will
14 better protect the public against market power abuses in both the short term and the long term.

1 RESPECTFULLY SUBMITTED this 1st day of August, 2002.

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3 

4 Gary A. Dodge
5 Attorney for Arizonans for Electric Choice
6 and Competition
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8 Original and ten (10) copies of the foregoing
9 filed this 1st day of August, 2002, with:

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11 Docket Control Division
12 Arizona Corporation Commission
13 1200 West Washington Street
14 Phoenix, Arizona 85007
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